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SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

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Public Law 100-675
100th Congress

An Act

Nov. 17, 1988
[S. 795]

To provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, to authorize the lining of the All American Canal, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

San Luis Rey Indian Water Rights Settlement Act.

TITLE I—SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "San Luis Rey Indian Water Rights Settlement Act".

SEC. 102. DEFINITIONS.

For purposes of this title:

(1) BANDS.—The term "Bands" means the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians which are recognized by the Secretary of the Interior as the governing bodies of their respective reservations in San Diego County, California.

(2) FUND.—The term "Fund" means the San Luis Rey Tribal Development Fund established by section 105.

(3) INDIAN WATER AUTHORITY.—The term "Indian Water Authority" means the San Luis Rey River Indian Water Authority, an intertribal Indian entity established by the Bands.

(4) LOCAL ENTITIES.—The term "local entities" means the city of Escondido, California; the Escondido Mutual Water Company; and the Vista Irrigation District.

(5) SETTLEMENT AGREEMENT.—The term "settlement agreement" means the agreement to be entered into by the United States, the Bands, and the local entities which will resolve all claims, controversies, and issues involved in all the pending proceedings among the parties.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) SUPPLEMENTAL WATER.—The term "supplemental water" means water from a source other than the San Luis Rey River.

SEC. 103. CONGRESSIONAL FINDINGS; LOCAL CONTRIBUTIONS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Reservations established by the United States for the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians on or near the San Luis Rey River in San Diego County, California, need a reliable source of water.

(2) Diversions of water from the San Luis Rey River for the benefit of the local entities commenced in the early 1890s and

continue to be an important source of supply to those communities.

(3) The inadequacy of the San Luis Rey River to supply the needs of both the Bands and the local entities has given rise to litigation to determine the rights of various parties to water from the San Luis Rey River.

(4) The pendency of the litigation has—

(A) severely impaired the Bands' efforts to achieve economic development on their respective reservations,

(B) contributed to the continuation of high rates of unemployment among the members of the Bands,

(C) increased the extent to which the Bands are financially dependent on the Federal Government, and

(D) impeded the Bands and the local entities from taking effective action to develop and conserve scarce water resources and to preserve those resources for their highest and best uses.

(5) In the absence of a negotiated settlement—

(A) the litigation, which was initiated almost 20 years ago, is likely to continue for many years,

(B) the economy of the region and the development of the reservations will continue to be adversely affected by the water rights dispute, and

(C) the implementation of a plan for improved water management and conservation will continue to be delayed.

(6) An agreement in principle has been reached under which a comprehensive settlement of the litigation would be achieved, the Bands' claims would be fairly and justly resolved, the Federal Government's trust responsibility to the Bands would be fulfilled, and the local entities and the Bands would make fair and reasonable contributions.

(7) The United States should contribute to the settlement by providing funding and delivery of water from a supplemental source. Water developed through conjunctive use of groundwater on public lands in southern California or water to be reclaimed from lining the previously unlined portions of the All American Canal can provide an appropriate supplemental water source.

(b) PURPOSE.—It is the purpose of this title to provide for the settlement of the reserved water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, in a fair and just manner which—

(1) provides the Bands with a reliable water supply sufficient to meet their present and future needs;

(2) promotes conservation and the wise use of scarce water resources in the upper San Luis Rey River System;

(3) establishes the basis for a mutually beneficial, lasting, and cooperative partnership among the Bands and the local entities to replace the adversary relationships that have existed for several decades; and

(4) fosters the development of an independent economic base for the Bands.

SEC. 104. SETTLEMENT OF WATER RIGHTS DISPUTE.

Sections 106 and 109 of this Act shall take effect only when—

(1) the United States; the City of Escondido, California; the Escondido Mutual Water Company; the Vista Irrigation Dis-

trict; and the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians have entered into a settlement agreement providing for the complete resolution of all claims, controversies, and issues involved in all of the pending proceedings among the parties in the United States District Court for the Southern District of California and the Federal Energy Regulatory Commission; and

(2) stipulated judgments or other appropriate final dispositions have been entered in said proceedings.

SEC. 105. SAN LUIS REY TRIBAL DEVELOPMENT FUND.

(a) ESTABLISHMENT OF FUND.—There is hereby established within the Treasury of the United States the "San Luis Rey Tribal Development Fund".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) There is authorized to be appropriated to the San Luis Rey Tribal Development Fund $30,000,000, together with interest accruing from the date of enactment of this Act at a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding Federal obligations of comparable maturity. Following execution of the settlement agreement, judgments, and other appropriate final dispositions specified in section 104, the Secretary of the Treasury shall allocate and make available such monies from the trust fund as are requested by the Indian Water Authority.

(2) Any monies not allocated to the Indian Water Authority and remaining in the fund authorized by this section shall be invested by the Secretary of the Treasury in interest-bearing deposits and securities in accordance with the Act of June 24, 1938 (25 U.S.C. 162a). Such interest shall be made available to the Indian Water Authority in the same manner as the monies identified in paragraph (1).

SEC. 106. DUTIES OF THE UNITED STATES FOR DEVELOPMENT OF SUPPLEMENTAL WATER.

(a) OBLIGATION TO ARRANGE FOR DEVELOPMENT OF WATER FOR BANDS AND LOCAL ENTITIES.—To provide a supplemental water supply for the benefit of the Bands and the local entities, subject to the provisions of the settlement agreement, the Secretary is authorized and directed to:

(1) arrange for the development of not more than a total of 16,000 acre-feet per year of supplemental water from public lands within the State of California outside the service area of the Central Valley Project; or

(2) arrange to obtain not more than a total of 16,000 acre-feet per year either from water conserved by the works authorized in title II of this Act, or through contract with the Metropolitan Water District of Southern California.

Nothing in this section or any other provision of this title shall authorize the construction of any new dams, reservoirs or surface water storage facilities.

(b) AUTHORITY TO UTILIZE EXISTING PROGRAMS AND PUBLIC LANDS.—To carry out the provisions of subsection (a), the Secretary may, subject to the rights and interests of other parties and to the extent consistent with the requirements of the laws of the State of California and such other laws as may be applicable:

(1) utilize existing programs and authorities; and

(2) permit water to be pumped from beneath public lands and, in conjunction therewith, authorize a program to recharge some or all of the groundwater that is so pumped.

(c) TERMS AND CONDITIONS OF WATER DELIVERIES.—Such supplemental water shall be provided for use by the Bands on their reservation and the local entities in their service areas pursuant to the terms of the settlement agreement and shall be delivered at locations, on a schedule and under terms and conditions to be agreed upon by the Secretary, the Indian Water Authority, the local entities and any agencies participating in the delivery of the water. It may be exchanged for water from other sources for use on the Bands' reservations or in the local entities' service areas.

(d) COST OF DEVELOPING AND DELIVERING WATER.—The cost of developing and delivering supplemental water pursuant to this section shall not be borne by the United States, and no Federal appropriations are authorized for this purpose.

(e) REPORT TO CONGRESS.—Notwithstanding the provisions of section 104, within nine months following enactment of this Act, the Secretary shall report to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate on (1) the Secretary's recommendations for providing a supplemental water source including a description of the works, their costs and impacts, and the method of financing; and (2) the proposed form of contract for delivery of supplemental water to the Bands and the local entities. When 60 calendar days have elapsed following submission of the Secretary's report, the Secretary shall execute the necessary contracts and carry out the recommended program unless otherwise directed by the Congress. Contracts.

SEC. 107. ESTABLISHMENT, STATUS, AND GENERAL POWERS OF SAN LUIS REY RIVER INDIAN WATER AUTHORITY.

(a) ESTABLISHMENT OF INDIAN WATER AUTHORITY APPROVED AND RECOGNIZED.—

(1) IN GENERAL.—The establishment by the Bands of the San Luis Rey River Indian Water Authority as a permanent intertribal entity pursuant to duly adopted ordinances and the power of the Indian Water Authority to act for the Bands are hereby recognized and approved.

(2) LIMITATION ON POWER TO AMEND OR MODIFY ORDINANCES.—Any proposed modification or repeal of any ordinance referred to in paragraph (1) must be approved by the Secretary, except that no such approval may be granted unless the Secretary finds that the proposed modification or repeal will not interfere with or impair the ability of the Indian Water Authority to carry out its responsibilities and obligations pursuant to this Act and the settlement agreement.

(b) STATUS AND GENERAL POWERS OF INDIAN WATER AUTHORITY.—

(1) STATUS AS INDIAN ORGANIZATION.—To the extent provided in the ordinances of the Bands which established the Indian Water Authority, such Authority shall be treated as an Indian entity under Federal law with which the United States has a trust relationship.

(2) POWER TO ENTER INTO AGREEMENTS.—The Indian Water Authority may enter into such agreements as it may deem necessary to implement the provisions of this title and the settlement agreement.

(3) INVESTMENT POWER.—Notwithstanding paragraph (1) or any other provision of law, the Indian Water Authority shall have complete discretion to invest and manage its own funds: *Provided*, That the United States shall not bear any obligation or liability regarding the investment, management or use of such funds.

(4) LIMITATION ON SPENDING AUTHORITY.—All funds of the Indian Water Authority which are not required for administrative or operational expenses of the Authority or to fulfill obligations of the Authority under this title, the settlement agreement, or any other agreement entered into by the Indian Water Authority shall be invested or used for economic development of the Bands, the Bands' reservation lands, and their members. Such funds may not be used for per capita payments to members of any Band.

(c) INDIAN WATER AUTHORITY TREATED AS TRIBAL GOVERNMENT FOR CERTAIN PURPOSES.—The Indian Water Authority shall be considered to be an Indian tribal government for purposes of section 7871(a)(4) of the Internal Revenue Code of 1986.

SEC. 108. DELEGATION OF AUTHORITY.

Contracts.

The Secretary and the Attorney General of the United States, acting on behalf of the United States, and the Bands, acting through their duly authorized governing bodies, are authorized to enter into the settlement agreement. The Secretary is authorized to enter into such agreements and to take such measures as the Secretary may deem necessary or appropriate to fulfill the provisions of this title.

SEC. 109. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION AND THE SECRETARY OF THE INTERIOR OVER POWER FACILITIES AND GOVERNMENT AND INDIAN LANDS.

(a) POWER FACILITIES.—Any license issued under the Act of June 10, 1920 (16 U.S.C. 791a et seq., commonly referred to as Part I of the Federal Power Act) for any part of the system that diverts the waters of the San Luis Rey River originating above the intake to the Escondido Canal—

(1) shall be subject to all of the terms, conditions, and provisions of the settlement agreement and this title; and

(2) shall not in any way interfere with, impair or affect the ability of the Bands, the local entities and the United States to implement, perform, and comply fully with all of the terms, conditions, and provisions of the settlement agreement.

(b) INDIAN AND GOVERNMENT LANDS.—Notwithstanding any provision of Part I of the Federal Power Act to the contrary, the Secretary is exclusively authorized, subject to subsection (c), to lease, grant rights-of-way across, or transfer title to, any Indian tribal or allotted land, or any other land subject to the authority of the Secretary, which is used, or may be useful, in connection with the operation, maintenance, repair, or replacement of the system to divert, convey, and store the waters of the San Luis Rey River originating above the intake to the Escondido Canal or the supplemental water supplied by the Secretary under this Act.

(c) APPROVAL BY INDIAN BANDS; COMPENSATION TO INDIAN OWNERS.—Any disposition of Indian tribal or allotted land by the Secretary under the subsection (b) shall be subject to the approval of the governing Indian Band. Any individual Indian owner or allottee

whose land is disposed of by any action of the Secretary under subsection (b) shall be entitled to receive just compensation.

SEC. 110. RULES OF CONSTRUCTION.

(a) EMINENT DOMAIN.—No provision of this title shall be construed as authorizing the acquisition by the Federal Government of any water or power supply or any water conveyance or power transmission facility through the power of eminent domain or any other nonconsensual arrangement.

(b) STATUS AND AUTHORITY OF INDIAN WATER AUTHORITY.—No provision of this title shall be construed as creating any implication with respect to the status or authority which the Indian Water Authority would have under any other law or rule of law in the absence of this title.

SEC. 111. COMPLIANCE WITH BUDGET ACT.

To the extent any provision of this title provides new spending authority described in section 401(c)(2)(A) of the Congressional Budget Act of 1974, such authority shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—ALL AMERICAN CANAL LINING

SEC. 201. CONGRESSIONAL FINDINGS.

Congress hereby finds and declares that:

(1) The Boulder Canyon Project Act ("Project Act") was enacted to conserve the waters of the lower Colorado River for a number of public purposes, including the storage and delivery of water for reclamation of public lands and other uses exclusively within the United States.

(2) The Secretary of the Interior ("Secretary") was authorized by the Project Act to construct what is now Hoover Dam, Lake Mead, and the All American Canal and "to contract for the storage of water in said reservoir and for the delivery thereof at such points on the river and on said canal as may be agreed upon . . .".

(3) The Project Act provides that "no person shall have or be entitled to have the use for any purpose of the water stored as aforesaid except by contract" and in California the Secretary has entered into water delivery contracts with public agencies.

(4) The Secretary's water delivery contracts incorporate the Seven Party Agreement of August 18, 1931, under which water that is not applied to beneficial use by a California Contractor is available for use by the California Contractor with the next priority.

(5) The available supply of Colorado River water in California is insufficient to meet the priorities set forth in the Seven Party Agreement.

(6) The Secretary's water delivery contracts with the California Contractors provide that the total beneficial consumptive use under the first three priorities established in the contracts shall not exceed 3.85 million acre-feet of water per year.

(7) The rights of all California Contractors are defined by the Project Act, their contracts, and decisions and decrees of the United States Supreme Court.

(8) The Secretary has promulgated regulations pursuant to his authority under the Project Act establishing procedures to assure that deliveries of Colorado River water to each user will not exceed those reasonably required for its beneficial use.

(9) The Secretary has constructed the All American Canal and delivers water to the Imperial Irrigation District and Coachella Valley Water District under water delivery contracts by which those districts are entitled to receive deliveries of water in amounts reasonably required for potable and irrigation purposes.

(10) Studies conducted by the Secretary show that significant quantities of water currently delivered into the All American Canal and its Coachella Branch are lost by seepage from the canals and that such losses could be reduced or eliminated by lining these canals.

SEC. 202. DEFINITIONS.

As used in this title, the term—

(1) "All American Canal Service Area" shall mean the Imperial Service Area and the Coachella Service Area as defined in the Imperial Irrigation District and Coachella Valley Water District water delivery contracts with the Secretary dated December 1, 1932, and October 14, 1934, respectively.

(2) "California Contractors" shall mean the Palo Verde Irrigation District; Imperial Irrigation District; Coachella Valley Water District; and, The Metropolitan Water District of Southern California.

(3) "Participating Contractor" shall mean a California Contractor who elects to participate in, and fund, all or a portion of the works described in section 203 of this title.

(4) "Project Act" shall mean the Boulder Canyon Project Act (45 Stat. 1057; 43 U.S.C. 617–617t).

(5) "Secretary" shall mean the Secretary of the Interior.

(6) "Seven Party Agreement" shall mean that agreement dated August 18, 1931, providing the schedule of priorities for use of the waters of the Colorado River within California as published in section 6 of the General Regulations of the Secretary of the Interior dated September 28, 1931, and incorporated in the Secretary's water delivery contracts with the California Contractors.

(7) "Works" shall mean the facilities and measures specified in section 203(a) of this title.

SEC. 203. AUTHORIZATION OF PROJECT.

(a) CANAL LINING AUTHORIZED.—The Secretary, in order to reduce the seepage of water, is authorized to—

Public health and safety.

(1) construct a new lined canal or to line the previously unlined portions of the All American Canal from the vicinity of Pilot Knob to Drop 4 and its Coachella Branch from Siphon 7 to Siphon 32, or construct seepage recovery facilities in the vicinity of Pilot Knob to Drop 4, including measures to protect public safety; and

Fish and fishing. Wildlife.

(2) implement measures for the replacement of incidental fish and wildlife values adjacent to the canals foregone as a result of the lining of the canal or mitigation of resulting impacts on fish and wildlife resources from construction of a new canal, or a portion thereof. Such measures shall be on an acre-for-acre

basis, based on ecological equivalency, and shall be implemented concurrent with construction of the works. The Secretary shall make available such public lands as he deems appropriate to meet the requirements of this subsection. The Secretary is authorized to develop ground water, with a priority given to nonpotable sources, from public lands to supply water for fish and wildlife purposes. Public lands.

(b) OPERATION AND MAINTENANCE DETERMINATION.—The Secretary shall determine the impact of the works on the cost of operation and maintenance and the existing regulating and storage capacity of the All American Canal and its Coachella Branch. If the works result in any added operation and maintenance costs which exceed the benefits derived from increasing the regulating and storage capacity of the canals to the Imperial Irrigation District or the Coachella Valley Water District, the Secretary shall include such costs in the funding agreement for the works.

(c) CONSTRUCTION AND FUNDING AGREEMENT.—The Secretary, subject to the provision of section 205 of this title, may enter into an agreement or agreements with one or more of the California Contractors for the construction or funding of all or a portion of the works authorized in subsection (a) of this seotion. The Secretary shall ensure that such agreement or agreements include provisions setting forth—

(1) the responsibilities of the parties to the agreement for funding and assisting with implementing all the duties of the Secretary identified in subsections (a) and (b) of this section;

(2) the obligation of the Participating Contractors to pay the additional costs identified in subsection (b) of this section as a result of the works;

(3) the procedures and requirement for approval and acceptance by the Secretary of such works, including approval of the quality of construction, measures to protect the public health and safety, mitigation or replacement, as appropriate, of fish and wildlife resources or values, and procedures for operation, maintenance, and protection of such works; Public health and safety.

(4) the rights, responsibilities, and liabilities of each party to the agreement;

(5) the term of such agreements which shall not exceed 55 years and may be renewed if consented to by Imperial Irrigation District and Coachella Valley Water District according to their respective interests in the conserved water. If the funding agreements are not renewed, the Participating Contractors shall be compensated by the Imperial Irrigation District or the Coachella Valley Water District for their participation in the cost of the works. Such compensation shall be equal to the replacement value of the works less depreciation. Such depreciated value is to be based upon an engineering analysis by the Secretary of the remaining useful life of the works at the expiration of the funding agreements;

(6) the obligation of the Participating Contractors or the United States for repair or other corrective action which would not have occurred in the absence of the works in the case of earthquake or other acts of God;

(7) the obligation of the Participating Contractors or the United States to hold harmless Imperial Irrigation District and Coachella Valley Water District for liability to third parties

which occurs after the Secretary accepts the works and would not have occurred in the absence of the works; and,

(8) the requirement that the remaining net obligations due the United States for construction of the All American Canal owed on the date of enactment of this Act be paid by the Participating Contractors.

(d) TITLE TO THE WORKS.—A Participating Contractor shall not receive title to any works constructed pursuant to this section by virtue of its participation in the funding for the works. Title to all such works shall remain with the United States. Upon completion of the works and upon request by an All American Canal Contractor (City of San Diego, Imperial Irrigation District, or Coachella Valley Water District) for transfer of title of the All American Canal, its Coachella Branch, and appurtenant structures below Syphon Drop (including the works constructed pursuant to this section), the Secretary shall, within 90 days, take such necessary action as the Secretary deems appropriate to complete transfer of title to the requesting contractor, according to the contractor's respective interest unless the Secretary determines that such transfer would impair any existing rights of other All American Canal contractors, the rights or obligations of the United States, or would inhibit the Secretary's ability to fulfill his responsibility under the Project Act or other applicable law.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) No Federal funds are authorized to be appropriated to the Secretary for construction of the works described in subsection (a)(1) of this section.

(2) The Secretary is authorized to receive funds in advance from one or more Participating Contractors pursuant to the Contributed Funds Act of March 4, 1921 (41 Stat. 1401) under terms and conditions acceptable to the Secretary in order to carry out the Secretary's responsibilities under subsections (a), (b), and (c) of this section.

SEC. 204. USE OF CONSERVED WATER.

(a) SECRETARIAL DETERMINATION.—The Secretary shall determine the quantity of water conserved by the works and may revise such determination at reasonable intervals based on such information as the Secretary deems appropriate. Such initial determination and subsequent revision shall be made in consultation with the California Contractors.

(b) BENEFICIAL USE IN CALIFORNIA.—

(1) The water identified in subsection (a) of this section shall be made available, subject to the approval requirement established in section 203(c)(3), for consumptive use by California Contractors within their service areas according to their priorities under the Seven Party Agreement.

(2) If the water identified in subsection (a) of this section is used during the term of the funding agreements by (A) a California Contractor other than a Participating Contractor, or (B) by a Participating Contractor in an amount in excess of its proportionate share as measured by the amount of its contributed funds in relation to the total contributed funds, such contractor shall reimburse the Participating Contractors for the annualized amounts of their respective contributions which funded the conservation of water so used, any added costs of operation and maintenance as determined in section 203(b), and

related mitigation costs under section 203(a)(2). Such reimbursement shall be based on the costs each Participating Contractor incurs in contributing funds and its total contribution, and the life of the works.

SEC. 205. IMPLEMENTATION.

The authorities contained in this title shall take effect upon enactment and the Secretary is authorized to proceed with all preconstruction activities. For a period not to exceed 15 months thereafter, or such additional period as the Secretary and the Imperial Irrigation District, the Coachella Valley Water District, and the Metropolitan Water District of Southern California may agree, the Secretary shall provide to the Imperial Irrigation District the opportunity to become the sole Participating Contractor for the works on the All American Canal from Pilot Knob to Drop 4, and assume all non-Federal obligations to finance the works. After the expiration of the 15-month period or any extension thereto, the Secretary is authorized to enter into agreements with the California Contractors as provided in section 203(c) of this Act.

SEC. 206. PROTECTION OF EXISTING WATER USES.

As of the effective date of this Act, any action of the Secretary to use, sell, grant, dispose, lease or provide rights-of-way across Federal public domain lands located within the All American Canal Service Area shall include the following conditions: (1) those lands within the boundary of the Imperial Irrigation District as of July 1, 1988, as shown in Imperial Irrigation District Drawing 7534, excluding Federal lands without a history of irrigation or other water using purposes; (2) those lands within the Imperial Irrigation District Service Area as shown on General Map of Imperial Irrigation District dated January 1988 (Imperial Irrigation District No. 27F 0189) with a history of irrigation or other water using purposes; and (3) those lands within the Coachella Valley Water District's Improvement District No. 1 shall have a priority for irrigation or other water using purposes over the lands benefiting from the action of the Secretary: *Provided*, That rights to use water on lands having such priority may be transferred for use on lands having a lower priority if such transfer does not deprive other lands with the higher priority of Colorado River water that can be put to reasonable and beneficial use.

SEC. 207. WATER CONSERVATION STUDY.

(a) PREPARATION AND TRANSMITTAL.—Any agreement entered into pursuant to section 203 between the Secretary and The Metropolitan Water District of Southern California (hereafter referred to as the "District") shall require, prior to the initiation of construction but in no case later than two years from the date of enactment of this Act, the preparation and transmittal to the Secretary by the District of a water conservation study as described in this section, together with the conclusions and recommendations of the District.

(b) PURPOSE.—The purpose of the study required by this section shall be the evaluation of various pricing options within the District's service area, an estimation of demand elasticity for each of the principal categories of end use of water within the District's service area, and the estimation of the quantity of water saved under the various options evaluated.

(c) PRICING ALTERNATIVES.—Such study shall include a thorough evaluation of all the pricing alternatives, alone and in various combinations, that could be employed by the District, including but not limited to—

(1) recovery of all costs through water rates;
(2) seasonal rate differentials;
(3) dry year surcharges;
(4) increasing block rates; and
(5) marginal cost pricing.

(d) PUBLIC REVIEW AND COMMENT.—Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including the transcripts of public hearings which shall be held during the course of the study. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(e) LIMITATION ON INITIATION OF CONSTRUCTION.—Prior to the initiation of construction, the Secretary shall determine that the requirements of this section have been satisfied. Nothing in this section shall be deemed to authorize the Secretary to require the implementation of any policies or recommendations contained in the study.

SEC. 208. SALTON SEA NATIONAL WILDLIFE REFUGE.

Reports.

Within 90 days from the date of enactment of this title, the Secretary is directed to prepare and submit a report to the Congress which describes the current condition of habitat at the Salton Sea National Wildlife Refuge, California. The report shall also—

(1) assess water quality conditions within the refuge;
(2) identify actions which could be undertaken to improve habitat at the refuge;
(3) describe the status of wildlife, including waterfowl populations, and how wildlife populations have fluctuated or otherwise changed over the past ten years; and
(4) describe current and future water requirements of the refuge, the availability of funds for water purchases, and steps which may be necessary to acquire additional water supplies, if needed.

SEC. 209. RELATION TO RECLAMATION LAW.

No contract or agreement entered into pursuant to this title shall be deemed to be a new or amended contract for the purposes of

section 203(a) of the Reclamation Reform Act of 1982 (Public Law 97-293, 96 Stat. 1263).

Approved November 17, 1988.

LEGISLATIVE HISTORY—S. 795:

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SENATE REPORTS: No. 100-47 and No. 100-254 (both from Select Comm. on Indian Affairs).
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Vol. 134 (1988): Oct. 3, 4, considered and passed House, amended.
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